

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO**

In re:
Michael R. McFalls

)
) **Chapter 13 Case No.:** 10-55444
)

) **Judge**

Shea-Stonum

☐ **Original Chapter 13 Plan**

☒ **Amended Chapter 13 Plan****

☒ **See Paragraph Twelve for Special Provisions**

Debtor(s)

ATTENTION CREDITORS - YOUR RIGHTS WILL BE AFFECTED.

The purpose of this plan is to organize how claims are proposed to be paid and allow users of the plan to easily review the plan for specific items and treatment under the plan. Creditors must exercise their own judgment in deciding whether to accept or oppose the plan. Creditors should read this plan carefully and discuss it with their attorney. Anyone who wishes to oppose any provision of this plan must file with the Court a timely written objection. This plan may be confirmed and become binding without further notice or hearing unless a timely written objection is filed. **Creditors must file a proof of claim with the Court in order to receive distributions under this plan. Absent an objection by the Debtor(s) or other party in interest, the Trustee shall pay claims as filed. Secured claims must have proof of security attached. Creditors claiming a right to interest should state the interest rate on the front page of the proof of claim.**

****This plan is being amended to reduce the monthly Trustee payment and to reduce the unsecured dividend.**

1. PLAN PAYMENTS

Within 30 days of the filing of this bankruptcy case, the Debtor or Debtors (hereinafter "Debtor") shall commence making monthly plan payments (the "Monthly Plan Payment") pursuant to 11 U.S.C. § 1326(a)(1), as follows:

A. To the Chapter 13 Trustee (hereinafter "Trustee"): \$ **1,090.00** per month, payable in

☒ monthly ☐ semi-monthly ☐ bi-weekly ☐ weekly installments of \$ **1,090.00** each,

____ The Debtor is employed by (**name and address of employer**) and shall make payment by payroll deduction.

____ The Debtor is self-employed and shall make payments to the Trustee by cashier check or money order.

☒ The Debtor is retired and/or has **Pension** and shall make payments to the Trustee by check or money order.

The Debtor further proposes to devote all annual income tax refunds greater than \$1,500 (Fifteen Hundred Dollars), excluding child care, educational and earned income credits to the repayment of creditors under this plan. Upon application by the Debtor(s), and for good cause shown, the Court may consider and may grant a temporary suspension of plan payments without hearing or notice. A suspension of plan payments, if approved by the Court, will not reduce the total amount of repayment creditors are to receive under the plan.

2. ADEQUATE PROTECTION PAYMENTS PRIOR TO CONFIRMATION

Concurrent with the filing of this plan, the Debtor has filed an agreed entry with the Trustee authorizing the Trustee to make adequate protection payments to the following creditors. Pursuant to 11 USC Section 102, creditors shall have 20 days to review the agreed entry for adequate protection payments and file an objection if the creditor opposes the adequate protection payment.

Creditor and Collateral

Account #

Address

Amount

-NONE-

3. ORDER OF DISTRIBUTION

After confirmation of this plan, funds available for distribution will be paid monthly by the Trustee in the following order: (i) Trustee's authorized percentage fee and/or administrative expenses; (ii) attorney fees as allowed under applicable rules and guidelines;

(iii) monthly payments as provided for in Paragraphs 4, 5 and 6; (iv) priority domestic support obligation claims pursuant to 11 U.S.C. §507(a)(1); (v) other priority unsecured claims pursuant to 11 U.S.C. §507(a); and (vi) general unsecured claims. If the Trustee has received insufficient funds from the Debtor to make the monthly payment to secured creditors, the Trustee may use best efforts to pay secured creditors from the funds on deposit with the Trustee on the date of distribution. Should the Debtor's plan payments result in the completion of payments to unsecured and priority creditors while leaving a balance owing to secured creditors, the Trustee is authorized to remove the fixed monthly payment amounts to finish payment to secured creditors on a pro rata basis in order to expedite payment to the secured creditors.

4. CLAIMS SECURED BY REAL PROPERTY

A. Mortgage and Real Estate Tax Arrearages

Trustee shall pay the monthly payment amount to allowed claims for mortgage arrearages and real estate tax arrearages in equal monthly payments. Trustee will pay interest on the mortgage arrearage if the proof of claim provides for interest, unless an objection to the claim is filed and an order is entered disallowing the requested interest. Note: The interest rate requested by the creditor should be stated on the front of the proof of claim. Debtor shall pay all post-petition mortgage payments and real estate taxes as those payments ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Address</u>	<u>Estimated Arrearage Claim</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
Wells Fargo (First Mortgage)	136 Hollywood Avenue, Cuyahoga Falls, Ohio 44221	2,318.10		40.00
Akron Firefighters' Credit Union (Second Mortgage)	136 Hollywood Avenue, Cuyahoga Falls, Ohio 44221	No Arrears.		This lien shall be stripped pursuant to 11 U.S.C. 522(f) and shall be treated as wholly unsecured
Capital One (Judgment Lien)	136 Hollywood Avenue, Cuyahoga Falls, Ohio 44221	No Arrears.		This lien shall be avoided pursuant to 11 U.S.C. 522(f) and shall be treated as wholly unsecured.
WFNNB (Judgment Lien)	136 Hollywood Avenue, Cuyahoga Falls, Ohio 44221	No Arrears.		This lien shall be avoided pursuant to 11 U.S.C. 522(f) and shall be treated as wholly unsecured
Calhoun County Sheriff (Property Taxes)	2721 Annamoriah Road, Creston, WV 26141	900.00		20.00

B. Liens and Other Claims Secured by Real Estate

<u>Creditor</u>	<u>Property Address</u>	<u>Amount to be Paid Through the Plan</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
-NONE-				

5. CLAIMS SECURED BY PERSONAL PROPERTY

A. Secured Claims to be Paid Through the Plan:

Trustee shall pay the following claims in equal monthly payments.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
Akron Firefighters Credit Union	2009 Chrysler Town & Country	24,300.00	6.25%	520.00
Akron Firefighters Credit Union	2008 Harley Heritage Softail Motorcycle	9,600.00	6.25%	205.00
HSBC Retail Credit	2005 Yamaha 650 Motorcycle	2,800.00	6.25%	60.00

<u>Creditor</u>	<u>Collateral Description</u>	<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
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6. FEDERAL TAX LIENS SECURED BY REAL AND PERSONAL PROPERTY

<u>Claim Amount</u>	<u>Interest Rate</u>	<u>Monthly Payment (Paid by Trustee)</u>
-NONE-		

7. DOMESTIC SUPPORT OBLIGATIONS

Debtor ☐ does ☒ does not have domestic support obligations pursuant to 11 U.S.C. §101(14A).

If the Debtor does have domestic support obligations:

The holder(s) of any claims for domestic support obligations pursuant to 11 U.S.C. §1302(d) are as specified below. If the holder of a claim is a minor, the name and address of the minor holder shall be disclosed to the Trustee contemporaneously with the filing of this plan in compliance with U.S.C. §112.

<u>Holder Name</u>	<u>Address of Holder (if known)</u>	<u>Address of Child Enforcement Support Agency (mandatory)</u>
-NONE-		

Trustee shall pay pursuant to 11 U.S.C. §507(a)(1) on a pro-rata basis the allowed arrearage claims for domestic support obligations. Debtor shall pay all post-petition domestic support obligations as those payments ordinarily come due.

<u>Creditor Name</u>	<u>Creditor Address</u>	<u>Estimated Arrearage Claim</u>
-NONE-		

8. OTHER PRIORITY CLAIMS

Trustee shall pay pursuant to 11 U.S.C. §507(a) on a pro rata basis other allowed unsecured priority claims.

<u>Creditor</u>	<u>Claim Amount</u>
Ohio Dept. of Taxation	400.00

9. GENERAL UNSECURED CLAIMS

Unsecured Creditors shall be paid 25 %, of timely filed and non disputed general non-priority unsecured claims.

10. PROPERTY TO BE SURRENDERED

Debtor will surrender the following property no later than 30 days from the filing of the case unless specified otherwise in the plan. The creditor may file a claim for the deficiency and will be treated as a non-priority unsecured creditor. Any unsecured deficiency claim must be filed within 180 days from the date that the petition is filed. A deficiency claim filed beyond the 180 days must be allowed by separate order of the Court.

<u>Creditor</u>	<u>Property Description</u>
ResortCom, International	Timeshare at Playa Grande in Cabo San Lucas, Mexico

11. EXECUTORY CONTRACT AND UNEXPIRED LEASES

All executory contracts and unexpired leases are rejected except the following, which are assumed. Trustee shall pay the monthly payment amount to allowed claims for executory contract arrearages and unexpired lease arrearages. Debtor shall pay all post-petition payments that ordinarily come due beginning with the first payment due after the filing of the case.

<u>Creditor</u>	<u>Property Description</u>
-NONE-	

12. SPECIAL PROVISIONS

A. Debtor(s)' counsel fees in Chapter 13 cases filed in Akron, Ohio, shall be deemed an administrative expense of the bankruptcy estate pursuant to 11 U.S.C. §503(b). Upon confirmation of the plan, provided sufficient funds have been paid into the plan, the Chapter 13 Trustee shall commence payment of attorney fees pursuant to 11 U.S.C. §507(a)(1) and 11 U.S.C. §1326(b)(1), subject to Administrative Order No. 04-01. Debtor(s)' counsel shall remain counsel of record and provide representation on behalf of the debtor(s) until completion or dismissal of this case, unless said representation has been excused by the Court. Failure to attend to such representation may result in an order requiring disgorgement of fees.

B. Pursuant to 11 U.S.C. 1305(a)(2), any governmental unit may file a proof of claim for taxes that become payable after the date on which the case was filed, provided that the case is still pending and a discharge has not been entered.

C. AKRON FIREFIGHTERS' CREDIT UNION: The second mortgage on property located at 136 Hollywood Avenue in Cuyahoga Falls, Ohio shall be stripped as having no secured value. Creditor shall be treated as wholly unsecured and be forever barred from asserting secured status. Creditor shall release its' lien upon completion of this Plan.

/s/Michael R. McFalls

Michael R. McFalls

Date: January 28, 2011

/s/ Debra E. Booher

Debra E. Booher

0067804

Debra Booher & Associates Co., LPA

One Cascade Plaza

First Floor

Akron, OH 44308

330.253.1555

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was electronically transmitted on or about January 28, 2011 via this Court's CM/ECF system to the following who are listed on the Court's Electronic Mail Notice List:

U.S. Trustee
Trustee, Mr. Keith Rucinski

and to the following via regular U.S. mail on January 28, 2011:

All parties on the attached list

/s/ Debra E. Booher
Debra E. Booher (# 0067804)

Label Matrix for local noticing
0647-5
Case 10-55444-mss
Northern District of Ohio
Akron
Fri Jan 28 11:37:04 EST 2011

2 Akron Firefighters Credit Union
161 Massillon Road
Akron, OH 44312-1052

4 Capital One
Bankruptcy Department
PO Box 5155
Norcross, GA 30091-5155

Akron Firefighters Credit Union
161 Massillon Road
Akron, OH 44312-1052

American Infosource Lp As Agent for Wfnnb
As Assignee of
Levin Furniture
PO Box 248872
Oklahoma City, OK 73124-8872

CANDICA L.L.C.
C O WEINSTEIN AND RILEY, PS
2001 WESTERN AVENUE, STE 400
SEATTLE, WA 98121-3132

Children's Hospital Medical Center
PO Box 1750
Akron, OH 44309-1750

Cuyahoga Falls General Hospital
c/o United Collection Bureau
5620 Southwyck Blvd.
Toledo, OH 43614-1501

Houston Funding II, Ltd
2620 Fountainview Ste 305
Houston TX 77057-7688

ResortCom, International
c/o Playa Grande Resort
PO Box 881069
San Diego, CA 92168-1069

US Bankruptcy Court
455 Federal Bldg
2 South Main Street
Akron, OH 44308-1813

3 World Financial Network Natl Bank
220 West Schrock Road
Westerville, OH 43081-2873

4 Capital One
c/o Atty. Jennifer Dorton
323 W. Lakeside Ave., #200
Cleveland, OH 44113-1009

Akron Firefighters Dept Credit Union
c/o Weltman Weinberg & Reis Co LPA
323 W. Lakeside Ave., 2nd Fl
Cleveland, OH 44113-1085

Barclay's
PO Box 8801
Wilmington, DE 19899-8801

Calhoun County Sheriff
PO Box 360
Grantsville, WV 26147-0360

Citibank/Home Depot
PO Box 6497
Sioux Falls, SD 57117-6497

GE Money Bank/ JCPenney
PO Box 103104
Roswell, GA 30076-9104

Ohio Dept. of Taxation
Bankruptcy Division
PO Box 530
Columbus, OH 43266-0001

Speedway/Super America
3460 Blazer Pkwy
Lexington, KY 40509

1-Wells Fargo
8480 Stagecoach Circle
Frederick, MD 21701-4747

3 World Financial Network Natl Bank
c/o Atty. Joseph DeGiorgio
175 S. Third St., Ste 900
Columbus, OH 43215-5166

AKRON FIREFIGHTERS CREDIT UNION INC
C/O WELTMAN ET AL
323 W. LAKESIDE AVE., 2ND FL
CLEVELAND, OH 44113-1085

American Express
PO Box 297812
Fort Lauderdale, FL 33329-7812

Barclay's
c/o Morgan & Pottinger
204 E. Market Street
Louisville, KY 40202-1218

Capital One Bank (USA), N.A.
by American Infosource Lp As Agent
PO Box 71083
Charlotte, NC 28272-1083

Cuyahoga Falls General Hospital
PO Box 182301
Columbus, OH 43218-2301

HSBC Retail Credit
700 North Wood Dale Road
Wood Dale, IL 60191-1107

Ohio Dept. of Taxation
c/o Attorney General
attn: Bankruptcy Staff
150 E. Gay Street, 21st Floor
Columbus, OH 43215-3191

Summa of Western Reserve
1900 23rd Street
Cuyahoga Falls, OH 44223-1404

Summa of Western Reserve c/o United Collection Bureau 5620 Southwyck Blvd. Toledo, OH 43614-1501	WELLS FARGO BANK NA C/O ERIN JOCHIM PO BOX 5480 CINCINNATI, OH 45201-5480	Wells Fargo Bank, N.A. c/o Wells Fargo Home Mortgage Bankruptcy Department One Home Campus MAC ID #X2302-04C Des Moines, IA 50328-0001
World's Foremost Bank PO Box 82608 Lincoln, NE 68501-2608	Debra E Booher 1350 Portage Trail Cuyahoga Falls, OH 44223-2105	Keith Rucinski Chapter 13 Trustee One Cascade Plaza Suite 2020 Akron, OH 44308-1160
Michael R. McFalls 136 Hollywood Avenue Cuyahoga Falls, OH 44221-1516		

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Wells Fargo Bank, N.A.	End of Label Matrix	
	Mailable recipients	36
	Bypassed recipients	1
	Total	37